IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1164 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

TRESSA PREM TIRKEY A WIDOW OF LATE PREM BALATIUS TIRKEY

Versus

DIRECTOR INSPECTOR GENERAL HEAD QUARTER,

Appearance:

1. Special Civil Application No. 1164 of 2001

MR DJ CHAUHAN for Petitioner No. 1

MS PJ DAVAWALA for Respondent No. 1

GOVERNMENT PLEADER for Respondents No. 1,2

CORAM : MR.JUSTICE A.R.DAVE

Date of decision: 26/12/2001

ORAL JUDGEMENT

Rule. Service of rule is waived by Mrs. P.J. Davawala, learned Addl. Central Govt. Standing Counsel

for respondent No. 1 and learned AGP Shri I.M. Pandya for respondent No. 2.

2. The petitioner is a widow of late Shri Prem Balatius Tirkey. Husband of the petitioner was working as an Asst. Sub-Inspector under the respondents. As the petitioner's husband had expired when he was in service, the petitioner had made a request to the concerned authority to give family pension to her, but as no amount of pension or family pension has been paid to her, she has approached this court with a prayer that the respondents should be directed to give pension to the petitoner.

3. I have heard learned advocate Shri D.J. Chauhan appearing for the petitioner, who has submitted that the petitioner was accused of the charge of murdering her husband, but the petitioner has been acquitted in the criminal case filed against her. Moreover, even the appeal filed by the State has been dismissed and therefore it cannot be said that the petitoner had committed murder of her husband. According to him, there is no reason to deprive the petitioner of the pecuniary benefits which she is entitled to as a widow of late Shri Prem Balatius Tirkey.

4. On the other hand, learned advocate Mrs. P.J. Davawala, Addl. Central Govt. Standing Counsel, has submitted that the respondent authorities are not aware of the fact that the appeal filed by the State of Gujarat against the acquittal of the petitioner has been dismissed. She has drawn my attention to a letter dated 1.4.2000 addressed to the petitioner (Annexure K to the petition). It has been submitted by her that only upon knowing the fact that the petitioner has been finally acquitted in the criminal case filed against her, needful can be done by the concerned authority.

5. I have heard the learned advocates and have noted the fact that even the appeal filed by the State of Gujarat against the judgment delivered in Sessions Case No. 27/99, wherein the petitioner was an accused, has been dismissed. However, no certified copy of the order passed in the appeal has been placed on record by learned advocate Shri Chauhan.

6. It has been submitted by learned advocate Mrs. Davawala that if a certified copy of the order passed in the appeal is forwarded to the concerned authority, the procedure for making payment of pensionary benefits can be commenced and if the petitoner is in fact entitled to

pension, she would be given the same.

7. Looking to the facts and circumstances of the case, it is directed that the petitioner shall forward a certified copy and other necessary documents which might be required by the respondent authorities It is hoped that upon receipt of the certified copy of the order passed in the criminal appeal and other relevant papers, the respondent authorities shall scrutinize the application submitted by the petitioner and do the needful for making payment of the amount payable to the petitioner. It is hoped that the respondents shall perform their duties as expeditiously as possible and preferably within 3 months from the date on which all formalities are complied with.

8. In view of above direction, the petition stands disposed of. Rule is made absolute to the above extent with no order as to costs.

(A.R. Dave, J.)

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